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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,574

07/19/2006

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VO-760

8052

42419 7590 09/28/2010
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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

09/28/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,574	Applicant(s) HARTEL ET AL.	
	Examiner TIMOTHY M. AYRES	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7-22, 24-35 is/are pending in the application.
- 4a) Of the above claim(s) 21, 22 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7-14, 24-28, and 30-35 is/are rejected.
- 7) ☒ Claim(s) 15-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

There has been a change in examiners to the undersigned Timothy M Ayres and any questions should be directed thereto.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/21/10 has been entered.

Claim Rejections - 35 USC § 103

2. By definition a "kit" is a collection of parts to create a product (frame structure) with the product is unassembled and refers to the assembled product in an intended use manner. When the claims are in a kit form it is structural details of the individual parts over the prior art that will make the claims patently distinct and not a new combinations of known parts.

3. Claims 2, 24-25, 27, and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,036,290 to Jancsek in view of US Patent 3,563,627 to Whipps. Jancsek is cited for teaching a switchgear cabinet, comprising: a cabinet rack

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made of four horizontal broad struts (42a, 42c, 44a, 44c), four horizontal depth struts (42b, 42d, 44b, 44d), and four vertical frame legs (40a-d) of a preset width, a preset depth and a preset height, plate-shaped cover elements (28, 30), vertical frames (52's See Figure 9) made of two vertical profiled frame elements (54) and two horizontal broad frame struts (62), connectable to the cabinet rack, and connected with the depth struts (42b, 42d, 44b, 44d) and at least one cabinet door (24; See Figures 1 and 6-8) beveled on a circumference (bevel can be seen in Figures 6-8). The vertical frame legs (40a-d) of the cabinet rack are formed as sections of respectively identical profiled elements fixedly connected with each other in corner areas of the switchgear cabinet rack by corner connectors (46). The vertical profiled frame elements (54) have a profiled base side (See Figures 3A-B) with at least one row of fastening receivers (See Figures 3A-B) which terminate with the front faces of the horizontal broad vertical struts (62; See Figure 9), and lateral legs are beveled off on both sides of the profiled base side which are oriented to the longitudinal sides of the associated horizontal broad frame (62) struts of the vertical frames (52) and are connected. The horizontal broad frame struts (62) and the vertical profiled frame elements (54) of the vertical frames (52) are fixedly connected with each other in the corner areas (See Figure 1). An identical bottom frame (44a-d) and an identical top frame (42a-d) which face each other with protruding corner connectors (46's) and are connected with each other via the four vertical frame legs (40a) to form the cabinet rack.

4. Whipps is cited for teaching a switchgear cabinet having plate-shaped cover elements (12, 80) having on two opposite sides fastening edges (46, 82) beveled at

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right angles with at least one row of fastening receivers (48, 86; See Figure 1) and a door (30) hinged to the plate-shaped cover elements (12, 80).

5. At the time of the invention it would have been obvious for a person of ordinary skill in the art to create a kit of parts for creating two frame structures (one taught by Jancsek and one by Whipps). Such a kit would have all the parts as taught by the claims.

6. Claims 3-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jancsek ('290), as modified by Whipps ('627), as applied to claim 33 above, and further in view of Fontana et al. (Fontana) (WO/01/47080). Jancsek in view of Whipps does not expressly disclose the vertical frame legs with the corner connectors form a continuous exterior receiver in the corner areas of the bottom frame and the top frame.

7. Fontana is cited for teaching a switchgear cabinet having vertical frame legs (10) in conjunction with corner connectors (20) forming a continuous exterior receiver in the corner areas of the bottom frame and the top frame (See Figures 1 and 2).

8. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps, so as to incorporate the corner connector, connecting configuration thereof, and the vertical frame legs with the corner connectors forming a continuous exterior receiver in the corner areas of the bottom frame and the top frame as taught by Fontana, in order to create an easily assembled switchgear cabinet made from interchangeable and

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easily replaceable parts and to create a switchgear cabinet that does not present a sharp edge to reduce the risk of injury.

9. As for Claim 4, Jancsek is cited for further teaching the vertical profiled frame elements (54) have profiled base sides (See Figures 3A-B) including at least one row of fastening receivers (See Figures 3A-B) which terminate with the front faces of the horizontal broad vertical struts (62; See Figure 9), and the vertical profiled frame elements (54) further include lateral legs are beveled off on both sides of the profiled base side which are oriented to the longitudinal sides of the associated horizontal broad frame (62) struts of the vertical frames (52) and are connected.

10. As for Claim 5, Jancsek is cited for further teaching at least one row of fastening receivers is cut in a uniform aligned graduation into the beveled lateral legs of the vertical profiled frame elements (See Figure 3B; See the rows of fastening receivers on each bevel).

As for Claim 7, Jancsek is cited for further teaching the horizontal broad frame struts (62) and the vertical profiled frame elements (54) of the vertical frames (52) are fixedly connected with each other in the corner areas (See Figure 1).

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jancsek ('290), as modified by Whipps ('627) and Fontana et al. (Fontana) (WO/01/47080), as applied to claim 7 above, and further in view of Ackermann (DE 19837184A1).

12. As for Claim 8, Jancsek is cited for further teaching the two vertical frames (52's) are connectible by fastening receivers (See Figure 9, portions that extend into 42b, 42d,

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44b, 44d) of the horizontal broad frame struts (54) with the facing tops of the horizontal depth struts (42b, 42d, 44b, 44d) of the cabinet rack at different distances from each other (See Figure 9; frames are capable of being spaced at different distances apart).

13. Jancsek, as modified by Whipps and Fontana, does not explicitly state cable guide openings on the horizontal broad frame struts of the vertical frames.

14. Ackermann is cited for teaching a switchgear cabinet having horizontal broad frame struts (6) of the vertical frames (6,7) have cable guide openings (See Figure 1, holes in center of 6). It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps and Fontana, so as to include cable guide openings on the horizontal broad frame struts of the vertical frames as taught by Ackermann, in order to route cables or wires up through the vertical frames.

15. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jancsek ('290), as modified by Whipps ('627) and Fontana et al. (Fontana) ('080) and Ackermann ('184), as applied to claim 8 above, and further in view of Marzec et al. (United States Patent No. 6,238,029).

16. As for Claim 9, Jancsek, as modified by Whipps, Fontana, and Ackermann does not explicitly state cable introduction recesses in the base plates of the plate-shaped cover elements in the rack outside in a vertical direction from the horizontal broad frame struts of the vertical frames.

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17. Marzec is cited for teaching a switchgear cabinet having cable introduction recesses (48) in base plates of the plate-shaped cover elements (19's) in the top of the rack.

18. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps, Fontana, and Ackermann so as to include cable introduction recesses in the base plates of the plate-shaped cover elements in the rack outside in a vertical direction from the horizontal broad frame struts of the vertical frames as taught by Marzec in order to route cables through a completed enclosure.

19. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jancsek ('290), as modified by Whipps ('627), Fontana ('080), Ackermann ('184), and Marzec ('029), as applied to claim 9 above, and further in view of Kostic (United States Patent No. 5,536,079).

20. As for Claim 10, Jancsek, as modified by Whipps, Fontana, Ackermann, and Marzec, does not explicitly state the fastening edges of the plate-shaped cover elements have connecting strips beveled toward an exterior on free edges and protrude beyond the base plate of the plate-shaped cover elements over the fastening edges and with the connecting strips form receivers for attaching lateral walls on the rack.

21. Kostic is cited for teaching a switchgear cabinet having fastening edges (26) of plate-shaped cover elements (4; See Figures 1, 3a-c, and Col. 3, Lines 15-31) have connecting strips (27) beveled toward an exterior on free edges and protrude beyond

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the base plate (See Figure 3c) of the plate-shaped cover elements (4) over the fastening edges (26) and with the connecting strips (27) form receivers for attaching lateral walls on the rack (Col. 3, Lines 15-31).

22. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps, Fontana, Ackermann, and Marzec, so as to include fastening edges of the plate-shaped cover elements have connecting strips beveled toward an exterior on free edges and protrude beyond the base plate of the plate-shaped cover elements over the fastening edges and with the connecting strips form receivers for attaching lateral walls on the rack as taught by Kostic in order to attach walls to the cabinet outside of the plane of the frame to allow for a greater space to place equipment inside of the cabinet.

23. As for Claim 11, Jancsek, as modified by Whipps, Fontana, Ackermann, Marzec, and Kostic, does not explicitly state the base plates of the plate-shaped cover elements protrude at the sides extending perpendicularly with respect to the fastening edges and have bevels, on which a cabinet door is connected with a hinge and lockable, and a rear wall is fastened thereto.

24. Whipps is cited for further teaching the base plate of the cover element (80) protrude at the sides extending perpendicularly with respect to the fastening edges (82) and have a bevels (96; See Figure 1), on which a cabinet door (30) is connected with a hinge and lockable, and a rear wall (26) fastened on the rack.

25. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps,

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Fontana, Ackermann, and Marzec, so as to form the base plates of the plate-shaped cover elements protruding at the sides extending perpendicularly with respect to the fastening edges and have bevels, on which a cabinet door is connected with a hinge and lockable, and a rear wall is fastened thereto, as further taught by Whipps, in order to mount the door on the upper and lower covers to more efficiently support the door

26. It also would have been obvious to substitute the bottom cover for a top cover in order to save money by only manufacturing one cover. Also, it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *In re Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

27. As for Claim 12, Jancsek, as modified by Whipps, Fontana, Ackermann, and Marzec, does not explicitly state base plates of the plate-shaped cover elements have a center opening and fastening bores in the corner areas.

28. Kostic is cited for further teaching base plates of the plate-shaped cover elements (4) have a center opening (13) and fastening bores (12) in the corner areas (See Figure 1).

29. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps, Fontana, Ackermann, Marzec, and Kostic, so as to include a center opening and fastening bores in the corner areas of the base plates of the plate-shaped cover elements as further taught by Kostic in order to allow air to pass into the cabinet and electronic equipment to be fastened to the cover.

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30. As for Claim 13, Jancsek is cited for further teaching the cabinet rack is formed of the bottom frame (44a-d) and an the top frame (42a-d) which face each other are connected via the four vertical frame legs (40a) positioned between corner connectors (46's) of each of the bottom frame and corner connectors of the top frame to form the cabinet rack.

31. As for Claim 14, Jancsek, as modified by Whipps, Fontana, Ackermann, Marzec, and Kostic, does not explicitly state the vertical frame legs of the cabinet rack have a profiled element with a plug-in connection for a plug-in element of the corner connectors, wherein with an exterior contour the profiled element forms the outer receptacle which is symmetrical with respect to a diagonal plane of the bottom frame, and the top frame.

32. Fontana is cited for further teaching the vertical frame legs (10) of the cabinet rack have a profiled element with a plug-in connection (See Figure 2) for a plug-in element (22) of the corner connectors (20), wherein with an exterior contour the profiled element forms the outer receptacle (See Figure 2; formed in between element 6's) which is symmetrical with respect to a diagonal plane of the bottom frame, and the top frame.

33. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps, Fontana, Ackermann, Marzec, and Kostic, so as to include the vertical frame legs of the cabinet rack having a profiled element with a plug-in connection for a plug-in element of the corner connectors, wherein with an exterior contour the profiled element forms the

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outer receptacle which is symmetrical with respect to a diagonal plane of the bottom frame, and the top frame as further taught by Fontana in order to form a simple plug-in connection for the corner joint of the cabinet that limits the potential danger of a sharp vertical edge.

34. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jancsek ('290), as modified by Whipps ('627), as applied to claim 1 above, and further in view of Ackermann ('184).

35. As for Claim 26, as best understood, Jancsek is cited for further teaching the two vertical frames (52's) are connectible by fastening receivers (See Figure 9, portions that extend into 42b, 42d, 44b, 44d) of the horizontal broad frame struts (54) with the facing tops of the horizontal depth struts (42b, 42d, 44b, 44d) of the cabinet rack at different distances from each other (See Figure 9; frames are capable of being spaced at different distances apart).

36. Jancsek, as modified by Whipps, does not explicitly state cable guide openings on the horizontal broad frame struts of the vertical frames.

37. Ackermann is cited for teaching a switchgear cabinet having horizontal broad frame struts (6) of the vertical frames (6,7) have cable guide openings (See Figure 1, holes in center of 6). It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps, so as to include cable guide openings on the horizontal broad frame struts

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of the vertical frames as taught by Ackermann, in order to route cables or wires up through the vertical frames.

38. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jancsek ('290), as modified by Whipps ('627), as applied to claim 1 above, and further in view of Hobday ('803).

39. As for Claim 28, as best understood, Jancsek, as modified by Whipps not explicitly state the cabinet door receives hinge elements with hinge bolts, which can be inserted into bearing receivers of the plate-shaped cover elements of the rack in the corner areas of the hinge side of the cabinet door, and the hinge bolts are adjustable in an axially limited manner in the hinge elements and can be fixed on the bevel of the plate-shaped cover elements against shifting, at least in the a position in which they are engaged with one of a facing bearing receiver and a bearing bushing.

40. Hobday is cited for teaching a switchgear cabinet having a cabinet door (30) which receives hinge elements with hinge bolts (31), which can be inserted into bearing receivers (32) of plate-shaped cover elements (5, 6) of the rack in the corner areas (See Figure 1) of the hinge side of the cabinet door (30), and the hinge bolts (31) are adjustable in an axially limited manner in the hinge elements and can be fixed on the bevel (See Figure 1) of the plate-shaped cover elements (5, 6) against shifting, at least in the a position in which they are engaged with a facing bearing receiver (32) (See Page 10, Paragraph 5, Lines 3-7).

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41. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps, so as to include the cabinet door having a beveled edge receive hinge elements with hinge bolts, which can be inserted into bearing receivers of the plate-shaped cover elements of the rack in the corner areas of the hinge side of the cabinet door, and the hinge bolts are adjustable in an axially limited manner in the hinge elements and can be fixed on the bevel of the plate-shaped cover elements against shifting, at least in the a position in which they are engaged with a facing bearing receiver as taught by Hobday, in order to create a simple hinge for the cabinet door that does not require a separate hinge mechanism.

42. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jancsek ('290), as modified by Whipps ('627), as applied to claim 1 above, and further in view of French (United States Patent No. 4,579,400).

43. As for Claim 30, as best understood, Jancsek, as modified by Whipps, does not explicitly state bearing bushes are inserted into the bearing receivers in the bevels of the plate-shaped cover elements.

44. French is cited for teaching a switchgear cabinet having bearing bushes (80's) inserted into bearing receivers (61, 62) in bevels (58) of plate-shaped cover elements (16, 18) (See Figures 3, 5, and 10).

45. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps so

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as to include bearing bushes inserted into bearing receivers in the bevels of the plate-shaped cover elements as taught by French in order to smoothly rotate the door on the cover element.

46. Claim 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Jancsek, as modified by Whipps, as applied to claim 1 above, and further in view of Kostic.

47. As for Claim 31, Jancsek, as modified by Whipps does not explicitly state a lock side of the cabinet door has displaceable locking bars which are shifted one of manually and by a rod closing device and are insertable into one of the bearing receivers and the bearing bushes of the bevels of the plate-shaped cover elements of the rack, and are removable.

48. Kostic is cited for teaching a switchgear cabinet having a pivotally attached cabinet frame (5) having displaceable locking bars which are shifted manually and are removable (See Col. 2, Lines 25-34).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the switchgear cabinet of Jancsek, as modified by Whipps so as to include a lock side of the cabinet door having displaceable locking bars which are shifted manually and are removable as taught by Kostic, in order to selectively lock the doors.

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49. Claims 32 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,036,290 to Jancsek in view of WIPO Publication WO 95/17803 to Hobday. Jancsek is cited for teaching a switchgear cabinet, comprising: a cabinet rack made of four horizontal broad struts (42a, 42c, 44a, 44c), four horizontal depth struts (42b, 42d, 44b, 44d), and four vertical frame legs (40a-d) of a preset width, a preset depth and a preset height, plate-shaped cover elements (28, 30), vertical frames (52's See Figure 9) made of two vertical profiled frame elements (54) and two horizontal broad frame struts (62), connectable to the cabinet rack, and connected with the depth struts (42b, 42d, 44b, 44d) and at least one cabinet door (24; See Figures 1 and 6-8) beveled on a circumference (bevel can be seen in Figures 6-8).

50. Hobday is cited for teaching a switchgear cabinet having cover elements (5, 6) including a bottom element (5) and a top element (6) connectible with two spaced-apart vertical frames (2a, 3, 2b, 4 and 2c, 3, 2d, 4) to form an independent rack (See Figure 1).

51. At the time of the invention it would have been obvious for a person of ordinary skill in the art to create a kit of parts for creating two frame structures (one taught by Jancsek and one by Hobday). Such a kit would have all the parts as taught by the claims.

Allowable Subject Matter

52. Claims 15-20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

53. Applicant's arguments filed 7/21/10 have been fully considered but they are not persuasive. Since there has been a change in examiners', the examiner decided to get an action mailed out before doing an interview, though it is suggested that the applicant call the examiner to set up an interview to go over the subject matter and the interpretation of the term "kit" in the claims. In regards to the arguments to the 103 rejections, due to the new interpretation of the term "kit", the combinations of Jancsek in view of Whipps or Hobday requires no actual modification now between the two references and the rejection is just putting the parts of both server frames into one box (making a kit) to allow a user to assemble the server frame of Jancsek and also one of Whipps or Hobday (depending on which rejection) to meet the required limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY M. AYRES whose telephone number is (571)272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. M. A./
Examiner, Art Unit 3637
9/25/2010

/Darnell M Jayne/
Supervisory Patent Examiner, Art
Unit 3637